

GOVERNMENT AND CONTROL OF WATER POWER
CONTROL DISTRICTS AND WATER IMPROVE-
MENT DISTRICTS.

S. B. No. 51.]

CHAPTER 19.

An Act amending Chapter 76, Acts of the Regular Session of the Forty-third Legislature and providing for the government of Water Power Control Districts and Water Improvement Districts organized or hereafter organized in accordance with the provisions of Chapter 247, Acts of the Fortieth Legislature, and governed by the provisions of Chapter 2, Title 128, Revised Civil Statutes and amendments thereto, and which include within their area or boundaries parts of several organized Water Improvements Districts, and/or Irrigation Districts, and/or irrigation plants or water plants not organized as defined Districts, providing for changing the name of such District to include the name Water Power Control Districts, the extension of the boundaries thereof, the exclusion of land therefrom, the election and appointment of directors, the creation of debts and the levy and collection of taxes and water charges and fixing a lien on properties assessed, and providing for the operation, government and control of such Districts and of all such defined Districts, irrigation and/or water plants included within such Districts, and providing for the organization of Water Improvement Districts as divisions of such Water Power Control Districts and the issuance of bonds and other evidence of debt by such included Districts to pay debts incurred by such Water Power Control Districts, and the levy and collection of taxes and water charges and fixing a lien on properties assessed; providing for the fixing of rights of such included Water Improvement Districts and/or Irrigation Districts and/or irrigation or water plants within said Water Power Control Districts and the fixing of their rights and settlement of such rights and validating all water appropriations thereof, and providing for the construction of water and power plants and the method of creating debts to pay for same and all operating charges and expenses, providing for the construction and operation of power plants by such Districts and the purchase and sale of power and electricity; providing for the securing of funds from the United States and agencies of the Federal Government in accordance with the laws of the United States and providing the methods of securing and paying debts created for such purposes by Water Power Control Districts and Water Improvement Districts and other defined Districts included within such Water Power Control Districts, validating Water Power Control Districts and Water Improvement Districts and Irrigation Districts included in Water Power Control Districts, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. That Chapter 76, Acts of the Forty-third Legislature be amended so as to read:

"Section 1. All Water Improvement Districts and Water Power Control Districts organized, or hereafter organized, in accordance with the provisions of Chapter 247, Acts of the Fortieth Legislature, and governed by the provisions of Chapter 2, Title 128, Revised Civil Statutes, and amendments thereto, and all Water Improvement Districts and Water Power Control Districts which include within their area or boundaries parts of several organized Water Improvement Districts, and/or Irrigation Districts, and/or irrigation plants or water plants not organized as defined Districts, shall be hereafter governed by the provisions of this Act and amendments that may be adopted hereto.

Section 2. All Water Improvement Districts and/or Water Power Control Districts which include lands in two or more counties and include lands embraced within two or more Water Improvement Districts and Irrigation Districts, and which Water Improvement Districts and/or Water Power Control District so including such districts and lands have been organized subsequent to the enactment of Chapter 247, Acts of the Fortieth Legislature and have been organized as Water Improvement Districts under the provisions of Chapter 2, Title 128, Revised Civil Statutes and amendments thereto are districts included within the terms and provisions of this Act described in Section 1 hereof, even though they have not in fact cooperated with the United States under the Federal Reclamation Laws and all such Districts are hereby validated and declared to be legally organized Districts.

Section 3. All Water Improvement Districts and Water Power Control Districts, governed by the provisions of this Act, which districts have heretofore been ordered to be established by order of the State Board of Water Engineers and/or a County Commissioners' Court, and which Districts have been or are now carrying out the purpose of their organization in planning and undertaking to finance and construct reservoirs and/or acquire water rights to carry out the plans of such Districts are hereby validated and declared to be valid, legal organizations and to have all the powers, functions and rights in this Act provided. The fact that by inadvertence or oversight any act of the officers of the State or any County, or other person, in the creation of any District was not properly done shall in no wise invalidate the organization of such District, and all such Districts are hereby validated in all respects as though they had been duly and legally established in the first instance.

Section 4. Water Power Control Districts, except as herein otherwise specially provided, shall be governed by the provisions of law relating to Water Improvement Districts and are fully vested with all the authority, powers rights and functions of Water Improvement Districts as defined and provided by the laws of the State of Texas as may now or hereafter be provided by law and by Chapter 2 of Title 128 of the Revised Civil Statutes of Texas and amendments thereof.

Section 5. All Water Improvement Districts which include lands in two or more organized districts shall hereafter be known and designated as Water Power Control Districts. The change of name from Water Improvement Districts to Water Power Control Districts shall not affect in any manner the prior organization proceedings, debts, securities, obligations, or records of such District, but shall change the name thereof. The name of all such Districts shall be the same as heretofore organized, except the words "Water Improvement District" included in such name shall be and are hereby changed to "Water Power Control District."

Section 6. Water Power Control Districts and Water Im-

provement Districts and Irrigation Districts included within Water Power Control Districts are fully authorized and empowered to cooperate with the United States under the National Industrial Recovery Act, and/or Federal Reclamation laws, and/or any and all laws of the United States applying to the aid of public works furnishing or securing funds for any and all purposes coming within the powers of such Districts so organized and concerning or pertaining to the conservation and use and control of water for any and all lawful purposes. The provisions hereof that such Districts may so cooperate with the United States is not intended as a limitation upon their power to operate as a Water Improvement District.

Section 6-a. Water Power Control Districts shall be divided into divisions. The number of divisions shall be one for each organized Water Improvement District and/or Irrigation District included within such Water Power Control District. All lands within such Water Power Control District not included within such organized districts shall for all purposes requiring and authorizing elections to be held by and for Water Power Control Districts including election of directors for such districts be for such purposes parts of the nearest such division.

Section 7. Water Power Control Districts shall be governed by a Board of Directors. The directors of such Districts heretofore elected or appointed and acting in fact as such Directors are hereby declared to be Directors of such Districts with full power to act as such Directors until their successors are duly elected and qualified. The number of Directors of such Districts shall be one for each separate divisions. The Director to be elected by the qualified voters thereof. Such election to be ordered, held, returns made, canvassed and the result thereof declared, by the Directors and officers of the organized Water Improvement District or Irrigation District in such division.

Section 8. Upon the election of any such Director the President and Secretary of said Board shall issue a certificate of election to him which shall be filed with the Secretary of such Water Power Control District. Each such Director shall make and execute an official bond in the sum of Five Thousand (\$5,000.00) Dollars payable to such Water Power Control District, conditioned that such Director will faithfully perform all duties required of him by law as such Director. Such bond shall be approved by the County Judge of the county in which such division for which he is elected is located and when so approved shall be recorded by the County Clerk of such county and be preserved in the office of such Clerk. Each Director shall execute an oath of office being the same form as provided for oaths of office for County Commissioners in the State of Texas, to be filed together with such bond in the office of such County Clerk. Upon the approval and filing of such bond

and oath of office the County Clerk shall issue a statement thereof to the Board of Directors of such Water Power Control District which shall be recorded in the minutes of such Water Power Control District.

Section 9. All elections for Directors of Water Power Control Districts to be held within each such division shall be ordered, notices thereof given, and all proceedings for the holding of such election in accordance with the provisions of law providing for holding of elections within Water Improvement Districts and except as therein otherwise provided in accordance with the provisions of the law of the State of Texas for holding general elections. Any person's name may be placed upon the ballot by a petition filed with the Board of Directors in such division ten (10) days prior to the date of such election by any ten (10) qualified voters in said division.

Section 10. The Directors so first elected or appointed shall serve as such Directors until the first Tuesday in April, 1934, and until their successors are elected or appointed and qualified. There shall be elected a Board of Directors for all such Water Power Control Districts on the First Tuesday in April, 1934, whose term of office shall be for a term of two (2) years and until their successors are elected and qualified, and such Directors shall be selected on such day each two (2) years thereafter, and shall qualify and assume the duties of their office within thirty (30) days after such date. In the event of vacancy in the office of a Director of a Water Power Control District, a successor shall be elected, provided in such special election notice of holding such election shall be given and published for fifteen days prior to the day of such election.

Section 11. All Water Power Control Districts including areas embraced within several Districts and/or water plants but which as organized do not include all the area included within such several Districts may extend their areas or boundaries to include all the area and/or lands laying within and/or under said several Districts and/or Water plants in the following manner:

The Board of Directors of such Water Power Control District at a meeting at which all said Directors are present shall make and record in their minutes an order extending the area included therein and the boundaries thereof so as to include and add to such District any part or all the lands and areas included within such several Districts, plants, and works. Notice, that such order so including such lands within such District has been made, shall be given, signed by the President and Secretary, and shall be published in one newspaper published in each county in which any part of said lands so added lies, once a week for three (3) weeks, which notice shall state a definite time and place when said order will be further considered to be affirmed, modified or repealed. Such hearing shall be held at such time and place and all persons interested therein or affected thereby may appear and contest such order

or advocate same. After said question shall have been fully heard and considered the said Board of Directors shall make and enter its final judgment thereon either affirming, modifying, or repealing same. The owner of any land so added to such District who does not desire to have his land included in such District may at the time of, or prior to such hearing, file with the Board of Directors a petition that his lands be not included in such District and all lands so requested to be not included therein shall be excluded therefrom. Any land so excluded upon petition of the owner shall be excluded from all benefits and services of such Water Power Control District.

If the said Board of Directors shall by mistake, inadvertence or error fail to include in such District any lands that in fact are part of such several Districts or areas or lands that are in fact entitled to be watered therein or thereby, and have in fact been watered thereby, or have the right to be watered thereby, the owner of such lands may have same thereafter added to such District by filing their written application therefor with the Board of Directors. Such petitions shall be set down for hearing and the petitioner notified thereof and shall be passed upon and either rejected or granted. If any such petition is rejected by the Board of Directors the applicant may file his suit against such Water Power Control District in the District Court to have determined his right to have his lands included therein and same shall be tried as a civil suit to determine the right to have said land included, based upon any legal right to have said land irrigated from an existing plant included in such Water Power Control District. If such Court shall by final judgment so order, same shall be included therein.

Section 12. Water Power Control Districts shall have the right and power to buy, own, construct, maintain and operate reservoirs, canals, power plants and any and all necessary properties, facilities and improvements to aid two or more districts and divisions included within such water power control district to conserve and use water for irrigation, water power and all other useful purposes and may construct, buy, own and operate power plants, and buy, sell, trade and generally deal in water, water rights, and electricity and power. Water Power Control Districts may own, buy and construct reservoirs and acquire water rights to secure, impound and conserve a water supply and furnish water to each of several districts, water plants and systems included therein in so far as it may have such available supply in the proportion to which said several divisions and plants therein are entitled to same as herein defined.

Section 13. Water Power Control Districts shall own and control all reservoirs, power plants and other improvements and properties purchased, constructed, and acquired by it, but each of the several divisions thereof shall have the right to participate in the water owned, controlled and stored and any

net revenue therefrom and to enforce its right to same in the pro rata portion that it is entitled to use the water acquired and to be furnished by such Water Power Control Districts.

Section 14. All right to, and appropriations of, water of the common source of water supply at any time made or acquired by such several Districts and/or water plants and divisions within a Water Power Control District shall be and enure to the benefit of such Water Power Control Districts, and all such rights heretofore acquired or applied for are validated and confirmed for the use of such Water Power Control Districts and all conflict in such rights as between the several divisions of such Water Power Control Districts are quieted and the rights of each such division therein and thereto shall be fixed and defined as herein provided.

Section 15. The amount of pro rata of the water supply of the Water Power Control District to which each of the divisions thereof is entitled shall be fixed and determined as herein provided prior to the time that said Water Power Control District shall issue bonds or notes to secure funds to construct any improvements, in order to determine same the Directors of the Water Power Control District shall compile an estimate of the water supply which it may reasonably expect to have available annually for distribution and shall compile a statement of the amount or pro rata part thereof that each organized district therein, and each tract of land therein not included in an organized district is entitled.

Section 16. The Board of Directors of such District shall set a day for hearing any objections to such statement as so compiled and any and all persons interested therein may appear and participate therein by petition or offering evidence as to any matter in dispute in order to have a full and impartial consideration of such questions. Notice of such hearing shall be given by publication of a notice thereof signed by the President and Secretary and published in a newspaper in each county in which any of such lands is situated by publication one time not less than eight days prior to the date of hearing. Such hearing may be continued and adjourned from time to time as may be deemed necessary to secure a full consideration of all questions presented. When the Board of Directors shall have finally determined all questions raised and have arrived at a final conclusion as the proper divisions of such water, to determine the pro rata right in the total expected supply, an order shall be adopted fixing and defining same. Such order shall be entered on the minutes.

The right of each unit or division shall be a pro rata interest.

Section 17. The rights of each unit or division within a Water Power Control District shall be evidenced by a written contract executed by each and all said units or divisions with the said Water Power Control District. Such contracts to be executed by the Board of Directors of all said Districts and

shall be effective from the time so executed. No election shall be required to validate same unless a debt is created by such contract. Such contracts may provide for any and all matters and things necessary to the joint ownership, operation, maintenance and conduct of such property and defining and establishing the rights of each unit or division therein, but same shall not conflict with any provision of the laws governing such Districts. Such contracts may be amended by joint agreement made in the same manner.

All such contracts shall provide that the ownership and rights of the several divisions or units in such Water Power Control District, and all properties and rights and revenue thereof, are subordinate to and subject to the rights of the holder of any and all debts created by such Water Power Control District and subject to and subordinate to all pledges, liens, contracts and obligations of such Water Power Control District executed to guarantee the repayment of any debt contracted by such Water Power Control District.

Section 18. All Water Power Control Districts organized as herien provided are and shall be Conservation and Reclamation Districts under the provisions of Section 59, Article 16 of the Constitution with all the power and rights therein provided, and may incur indebtedness evidenced by contract, notes, warrants or bonds and levy taxes, fix and levy charges for the distribution, sale and/or use of water, and/or power to fully pay any debt or obligation incurred and for the payment of the costs of construction of any plants or improvement, and the maintenance and operation thereof.

Section 19. Prior to the issuance of any bonds or the creation of any debt the proposition shall first be submitted to the qualified tax paying voters of such District and the proposition be adopted by a majority of those voting at such election. Notice of such election shall be given by notice issued twenty days prior to the day of election, publication of notice for two weeks in a newspaper in each county in which any part of said District is situated.

Section 20. Water Power Control Districts may borrow money for any authorized purpose and may fix, give and grant a lien and/or a mortgage upon any property owned or to be bought, constructed, or acquired by it and upon its income, revenue, and rights then existing or thereafter to be fixed or acquired or to accrue to it to fully guarantee the payment of such debts and all interest and charges to accrue thereon including the expenses of the holder of such debt incident to the enforcement of such lien and the collection of such debt.

Section 21. Water Power Control Districts may borrow money from any agency created by the laws enacted by the Congress of the United States and/or from any person and corporation for any purpose incident to its powers and functions and may evidence such debts by contracts, agreements, notes, bonds, or warrants payable at any term of years not to

exceed forty years with interest thereon not to exceed six per centum (6%) per annum and may pledge its properties, revenues, income, and source of revenues and income to the payment thereof together with interest thereon and the expense incident to the enforced collection thereof, and its revenue, income, and source of income so pledged shall be used exclusively for the purpose pledged until such debts are fully repaid and after being so pledged shall not be used for any other purpose unless released for such purpose.

Section 21-a. Water Power Control Districts may issue bonds and levy, assess and collect taxes under and in accordance with the provisions of Chapter 2, Title 128, Revised Civil Statutes and amendments thereto relating to Water Improvement Districts.

Section 21-b. Water Power Control Districts may pay and may contract to pay on any debt created by the issuance and sale of bonds and in addition to all taxes levied and collected therefor other funds, revenue and income and may pledge and fix a lien on, and mortgage any property, revenue and income, owned by it or accruing to it to secure the payment of such debt.

Section 21-c. Water Power Control Districts which may construct, own and operate reservoirs for the purpose of controlling and supplying water to two (2) or more organized districts and divisions included therein shall have the power and right to make and enforce reasonable rules for the use and distribution of water and to withhold the delivery of water to any lands, district or division thereof which shall fail to pay the assessments, charges and rentals fixed and provided by such Water Power Control District to secure funds for the payment of its obligations and create reasonable reserve funds and to maintain and operate same.

Section 21-d. Water Improvement Districts, Irrigation Districts and water plants, included within Water Power Control Districts shall be units or divisions thereof and the rights of each such district or division shall be fixed and determined by a contract to be executed by all such units, divisions and such Water Power Control District.

Section 22. Water Improvement Districts and Irrigation Districts included within Water Power Control Districts, organized as herein provided, are constituted and shall be Conservation and Reclamation Districts under the provisions of Section 59, Article 16, of the Constitution, with all powers and rights provided and may incur indebtedness evidenced by contracts, notes, warrants or bonds, and levy taxes, fix charges for the distribution, sale, and/or use of water, and/or power to fully pay any debt or obligation incurred and for the payment of cost of construction of any plants or improvements and the maintenance and operation thereof and for the maintenance and operation of such districts and for the purpose of fully carrying out and performing their obligations and contracts

with Water Power Control Districts for the construction of any reservoir, power plant, and improvements whatsoever to be acquired by, constructed by, and/or operated by such Water Power Control Districts and for the purpose of paying any and all debts and obligations of such Water Power Control District in its proper proportion as fixed by its contract and may pledge and deliver to, sell and pay to such Water Power Control Districts such bonds or other evidences of debts to be held, contracted, or pledged or sold by such Water Power Control District for the purpose of securing funds for any authorized purpose, expense or debt incurred or to be incurred by such Water Power Control District.

Section 23. Prior to the issuance of any bonds or the creation of any debts by Water Improvement Districts or Irrigation Districts included within a Water Power Control District the proposition shall first be submitted to the qualified property tax paying voters of such District and the proposition be adopted by a majority of those voting at such election.

Section 24. Water Improvement Districts and Irrigation Districts included within Water Power Control Districts may fully aid and assist such Water Power Control District to borrow money from the United States and any agency of the United States created by an Act of Congress in the manner herein provided and may create debts and obligations for such purpose and may evidence such debt or obligation by contract, agreements, notes, bonds, or warrants payable to such Water Power Control District and/or to the United States and any agency of the United States created by an Act of Congress, and if same are made payable to such Water Power Control District same may be pledged to the United States and to any agency of the United States created by an Act of Congress, or its assigns; and its revenue, income, and sources of income so pledged shall be used in so far as necessary exclusively for the purpose pledged until such debts, as same mature, are fully paid and after being so pledged shall not be used for any other purposes unless released for such purpose by contract executed by said agency of the United States, created by an Act of Congress and its assigns the owner and holder thereof. Provided the provisions hereof shall not in any manner restrict, enlarge or affect the payment of existing prior debts.

Section 25. In the event that any Water Improvement District and/or Irrigation District included within a Water Power Control District shall make and enter into a contract with such Water Power Control District which provides for the construction of a storage reservoir by such Water Power Control District, from which such Water Improvement District and Irrigation District will be served water, such Water Improvement District and Irrigation District may pledge itself to pay to such Water Power Control District the proportion of the cost thereof which it may contract and agree to pay and which may include all expenses and charges incident thereto. Such

payment may be evidenced by contracts, and/or notes, bonds, or evidence of indebtedness with interest thereon at not to exceed the rate of six per centum (6%) per annum. And to further guarantee the payment thereof such Water Improvement Districts and Irrigation Districts may provide by such contract that in the event it shall fail to pay the amount so required to be paid either in monthly, quarterly, semi-annual, or annual payments that such Water Power Control District may withhold the delivery of water to such Water Improvement District or Irrigation District or other division and not deliver water to such Water Improvement District and Irrigation District or other division until such payments have been made. And in the event that such default is made in such payments the delivery of water may be withheld and said Water Power Control District may sell such water to other person or corporations, and in such event such Water Improvement District and/or Irrigation Districts so in default shall not have any claim or action against such Water Power Control District for a failure to deliver such water to it.

Section 26. Water Improvement Districts and Irrigation Districts included within Water Power Control Districts shall have full authority and power to issue, pledge, and/or sell and deliver any and all obligations, contracts, agreements, notes, bonds, or warrants which it may issue as evidence of any debt, contract, or agreement made by it with such Water Power Control District and/or any person and/or agency, and/or any corporation lending money to such Water Power Control District and to provide for and assure or guarantee the payment therefor, may make a levy or fix a benefit against each and every acre of land included within such Water Improvement District and Irrigation District to pay such debt and the necessary cost of the assessments and collection hereof and such levy of such charge or tax may be made payable each year in monthly installments, quarterly installments, semi-annual installments, and/or annual installments. All such levies shall be payable at such time and times as may be fixed and determined and all installments, charges, or amounts so fixed that are not paid when due shall be classed as delinquent and when same become delinquent there shall be added thereto a penalty or charge of three per centum (3%) of the amount thereof, and all delinquent charges or taxes shall bear interest from the date that they become delinquent at the rate of six per centum (6%) per annum and if it becomes necessary for such District to place said delinquent charges in the hands of an attorney for collection, or to collect same by suit there shall be added thereto an attorney's fee of five per centum (5%) of the amount of said charge, penalty and interest.

Section 27. All Water Improvement Districts and Irrigation Districts included within a Water Power Control District may issue bonds for any lawful purpose as provided by law for the issuance of bonds by Water Improvement District

and/or may issue bonds upon the basis of taxes equally distributed upon an equitable basis by fixing and determining same an equal charge upon each acre of land therein entitled to a full share in the water supply of the District, and a pro rata equal charge upon each acre of land of the second class which is not entitled to a full share of water based on the quantity of water to which it is entitled, and may levy against each such acre of land its proportionate part of such debt created by the issuance of such bonds and in such event shall fix and determine the amount of tax per acre to be paid each year upon each acre of land of each class therein to pay the interest and charges accruing upon said bonds and the costs of assessing and collecting same and may fix and determine the time or times when said taxes shall be paid either in monthly, quarterly, semi-annual or annual installments. All such charges and taxes so levied shall be a lien upon the land upon which so levied. All such levies shall be payable at such time and times as may be fixed and determined and all installments, charges, or amounts so fixed that are not paid when due shall be classed as delinquent and when same become delinquent there shall be added thereto a penalty or charge of three per centum (3%) of the amount thereof and all delinquent charges or taxes shall bear interest from the date that they become delinquent at the rate of six per centum (6%) per annum and if it becomes necessary for such District to place said delinquent charges in the hands of an attorney for collection or to collect same by suit there shall be added thereto an attorney's fee of five per centum (5%) of the amount of said charge, penalty and interest. The District may withhold the delivery of water on any land upon which such taxes or charges are not paid after same become delinquent and until same are paid.

When taxes are fixed and levied on a fixed acreage basis as herein provided, a tax roll shall be prepared showing each tract of land, its classification, the total assessment and the annual or installment payments fixed thereon.

Section 28. Whenever a Water Improvement District and Irrigation District included within a Water Power Control District may have issued bonds payable by a general or ad-valorem tax and may issue other bonds and/or obligations payable by a benefit tax or an acreage charge or tax, separate tax rolls shall be prepared for each as provided by law and such District may issue bonds on either basis as determined by the Board of Directors prior to holding of an election to authorize same. The notice of election shall state the method of taxation that will be used to pay such bonds or obligations.

Section 29. In the event that there is included within a Water Power Control District, as herein defined, lands comprising parts or all of an existing irrigation system, now or prior to this time operated and owned by individuals or a corporation such area or any part thereof included or embraced

in said irrigation project or plant may be organized into and constituted a Water Improvement District in the following manner:

A petition praying for the organization of such District may be filed with the County Clerk of the County in which same is situated. Such petition shall be addressed to the County Commissioners' Court of the County, shall state the principal reasons why same should be organized as a Water Improvement District, and shall state the facts showing that same is feasible and the facts showing that same is a public utility and benefit. Such petition shall be signed by a majority of the owners of land therein who reside within such District as defined by said petition. The petition shall define the boundaries thereof.

When such petition is filed with the County Clerk same shall then be presented to the County Judge who shall endorse thereon a date of hearing thereof by the County Commissioners' Court of the county. The County Judge shall endorse on said petition the date fixed for such hearing and the County Clerk shall then issue notice thereof under his hand and seal and deliver such notice together with three copies thereof to the Sheriff of the County who shall execute same by posting one copy thereof at the County court house door, or at the place provided in the County court house for the posting of legal notices; and shall publish one copy thereof by causing same to be published in a newspaper published in the county, or if no newspaper is published in the county, then same shall be published in a newspaper published in an adjoining county; and by posting one copy thereof at a public place within the area in the petition. Such notices shall be posted for fifteen (15) days prior to the date of said hearing and such notice to be so published shall be published for once a week for two weeks. The first publication to be made at least twenty (20) days prior to the date of such hearing.

Such notice shall state the date said petition was filed and set out a copy of said petition together with a copy of the endorsement of the County Judge thereon fixing the date of hearing. Such notice shall be addressed to all persons having or owning any interest in property within the area defined in the petition, a description of such area shall be set out in such notice.

Upon the day fixed for the hearing of such petition any person affected by the formation of such District may appear and participate in such hearing and may offer evidence upon any and all matters pertaining thereto and may contest the formation of such District or advocate same by evidence, argument or statement.

If, at the hearing of such petition, it shall appear to the satisfaction of the Court that the organization of such District is feasible and practicable, and that it is needed and would be a public benefit and a benefit to the lands included in the District then the Court shall so find, and cause its findings to

be entered of record; but if the Court should find that the irrigation of lands in such District is not feasible and practicable and that the organization of such District would not be a public benefit or is not needed or would not be a public utility, then the Court may place such findings of record and dismiss the petition at the cost of the petitioners.

If the Court shall find that the petition should be granted and that the District should be organized then it shall make its order to that effect substantially as follows: "In the matter of the petition of and others praying for the establishment of a Water Improvement District as in said petition described and named be it known that said District is hereby established. Said District is legally established under the name of with the following metes and bounds: (set out description of boundaries)."

If at the hearing the Court shall enter an order granting or refusing the petition for the organization of said District at the cost of petitioners, then in that event the petitioners, or any one or more of them or any one owning land in such District, may appeal from said order to the District Court; provided, however, any such appeal shall only be taken in the event that notice thereof is filed with the County Clerk at the time of said hearing, or within two days thereafter, and that same is perfected by filing with the Clerk of said Court an appeal bond, approved by the County Judge, in a sum of not less than Two Thousand (\$2,000.00) Dollars or more than Five Thousand (\$5,000.00) Dollars to be fixed by the County Judge, payable to the County Judge for the benefit of adverse parties, within ten (10) days after notice of appeal is filed. In event of such appeal said cause shall be tried under the rules prescribed for practice in the District Court, and to be de novo, and the Clerk of the Commissioners' Court shall transfer to the Clerk of the District Court within ten (10) days from the date of filing of an appeal bond such judgment and all records filed with the County Commissioners' Court, and it shall not be necessary to file any other additional pleadings in said cause. The final judgment on appeal shall be certified to the Commissioners' Court for their action within twenty (20) days after same has become final.

At the time of so ordering a Water Improvement District to be defined and established the County Commissioners' Court shall appoint five (5) Directors for such District, who shall qualify as such Directors within ten (10) days thereafter by taking the oath of office provided by law and executing a bond in accordance with the provisions of law governing Water Improvement Districts.

After such Directors shall have qualified and organized as a Board of Directors notice shall be published by such Directors signed by the President and Secretary of such Board, stating that such District has been organized and that the owner of any land included within such District who does not desire to

have his land included therein may file his petition with the Secretary of the Board of Directors of such District to have said land excluded and taken out of said District. Such notice shall include a description of the boundaries of such District and shall set forth the time within which such petition may be so filed.

The owner or owners of any land included within a District so organized who wish to have their lands excluded therefrom may file a petition with the Secretary of the Board of Directors of such District praying that such lands be excluded therefrom at any time within thirty (30) days after the first publication of the notice herein provided for or at any time prior to the date of hearing of such petitions as herein provided. All such petitions for exclusion of land from such District shall describe the land by metes and bounds or other good and sufficient description and shall state the names and addresses of the owners thereof and all persons having or holding any interest therein or liens thereon.

The notice herein provided to be given of the hearing of application for exclusion of lands shall be published once a week for three weeks prior to the date of said hearing, the first publication of which shall not be less than thirty-five (35) days prior to the date of such hearing. Such notice shall be published in a newspaper published within the county in which such District is located. A copy of such notice shall be posted at the Courthouse of such county in the place provided for the posting of legal notices, and copy of same shall be posted at a public place within such District. Such notice shall be signed by the President and Secretary of the Board of Directors of such District and if such District does not have at that time an established office then such notice shall state the place where such hearing will be held, providing that the Directors may order that such hearing be held at the County Courthouse.

When petitions are so filed for the exclusion of land from such a District the Directors shall at the time and place designated hear same and all matters concerned therewith and if at such hearing the person filing such petition insists upon the exclusion of such land from such District the Board of Directors shall make and enter an order upon the minutes of said Board excluding such lands from such District by granting such petition and shall thereupon cause said petition together with the order of the Board of Directors thereon to be recorded in the Deed Records of the County in which same is located and thereupon said land shall be excluded from said District and shall thereafter be excluded from all benefits thereof to the same effect as if it had not been included within said District when so organized.

If and in the event that the lands so excluded from any District so organized should render the further functioning or operation of the District not practical, then the Board of Directors of such District shall so certify to the County Com-

missioners' Court by filing a statement of the facts with reference thereto with the County Clerk of the county, who shall thereupon present same to the County Commissioners' Court; and the County Commissioners' Court shall, in such event, consider such statement. If same is approved by such Court the Court may make and enter its order dissolving such District. Any such statement made as a basis of dissolving such District shall be so made and filed by the Directors of such District within five (5) days after the hearing upon petitions to exclude lands from such District.

All such Water Improvement Districts organized as provided herein shall be governed by the provisions of Chapter Two, Title 128, of the Revised Civil Statutes and amendments thereto, except as herein otherwise provided.

Section 30. Any Water Improvement District within a Water Power Control District organized in accordance with the provisions of this Act which shall include therein lands not possessing a water right or a right to be irrigated or watered from the irrigation system included within such Water Improvement District shall be classified as land not having a first class right but as lands having a second class right within such Water Improvement District and such lands having a second class right shall not take from such lands having a first class right any part of the water belonging to such lands having a prior or first class right therein. Such lands so having only a second right shall be entitled to the use and distribution of water thereon by such Water Improvement District in so far as the water supply of such District at any time exceeds the amount of water actually required for the use of first class lands and all valuations for taxation, assessments and charges levied thereon shall be proportioned only to the amount of water to which it may be entitled as distinguished from first class lands. The purpose of this provision of the law is that where an irrigation system has heretofore been established and rights have been acquired thereunder for the irrigation of certain lands and in the organization of a Water Improvement District additional lands may have been included therein not having such water right and not owning any part of such existing irrigation system that such additional lands so included shall not take water from such lands therein having such prior rights but that such additional lands so included therein may be furnished water in so far as possible without taking from such lands having prior rights the prior rights to be first furnished water."

SEC. 2. Water Improvement Districts situated within a Water Power Control District and which have been heretofore declared to have been organized and established by order of a County Commissioners' Court under the terms and provisions of Section 29, of Chapter 76, Acts of the Forty-third Legislature and the organization of which the County Commissioners' Court found that petitions for the organization thereof had

been filed and that notice thereof had been given and that the organization of such districts was feasible and practicable that it was needed, and would be a public benefit and benefit to the lands included in the district and has caused such findings to be entered of record are hereby found and declared to have been legally created and the same are hereby validated and declared to have been validly created Water Improvement Districts. The fact that by inadvertence or oversight any act of the officers of any county or other person in the creation of any District was not properly done shall in nowise validate such District, and all such districts are hereby validated in all respects as though they had been duly and legally established in the first instance.

SEC. 3. Water Improvement Districts and Irrigation Districts, part or all of which are included within a Water Power Control District and which Water Improvement Districts and Irrigation Districts have heretofore been organized and have in fact been established and operating for three years or more and which were at the time of their organization established by order of the County Commissioners' Court of the county in which they are situated and are now recognized and operating as such Water Improvement Districts and Irrigation Districts are hereby found and declared to have been legally created and are hereby validated. The fact that by inadvertence or oversight any act of the officers of any county or other person, in the creation of any such district was not properly done shall in no wise invalidate such district and all such districts are hereby validated in all respects as though they had been duly and legally established in the first instance.

SEC. 4. Water Power Control Districts may include tracts of land, Water Improvement Districts, and Irrigation Districts, the lands of which do not adjoin or be contiguous to each other but which may be separated.

SEC. 5. Water Power Control Districts which have or may borrow or secure funds from the United States and any agency of the United States created by an Act of Congress and/or under the provisions of the National Industrial Recovery Act and/or any other Act of the Congress of the United States may make and enter into contracts to secure such funds in accordance with the rules, practice and laws creating such agency and the rules and regulations properly established for the government of same, and the making of grants and loans by such agency.

Such contracts and agreements shall be made by the Board of Directors of such Water Power Control District and as so made by them shall be binding legal obligations of such District with the requirement however that before the obligations to be issued thereunder are binding as a lien or charge against the properties in such District, the proposition for the issuance thereof shall be submitted in an election for ratification by the qualified voters of such District.

At such election the proposition for the creation of any such debt shall be submitted to be voted upon by stating the amount of the debt or debts to be incurred, the maximum rate of interest that same will bear and the maximum maturity date thereof, but the evidence, of such debt, may be made to mature serially or in installments at any rate of interest not to exceed the rate of interest stated in such election notice and to mature at any time or times serially or in partial payments within the maximum time stated in said election notice and in any form or forms which shall constitute same valid binding obligations to secure the loan or funds which they are issued to secure.

Notice of holding of such election shall be ordered to be issued by the Board of Directors of such District. Such notice shall be signed by the President and Secretary of the District and shall state the proposition to be voted upon, the day when said election will be held, the place where said election will be held and shall describe the voting precincts and divisions sufficiently to show where elections will be held and the area or territory included in each voting precinct in such District.

Such notice of election shall be issued twenty days prior to the date of such election and copy thereof shall be posted at the Courthouse door in each county in which any part of such District is situated. Such notice shall be published in a newspaper published in each county in which any part of such District is situated once a week for two weeks prior to the holding of such election, the first publication thereof shall be not less than twenty days prior to the date of such election.

The Board of Directors of the District shall appoint a presiding judge and an associate judge, and two clerks to hold and conduct such election at each polling place, their qualification, oath and conduct of such election shall be in accordance with the laws of the State of Texas provided for holding general elections.

The proposition submitted at such election may contain two or more propositions with reference to the creation of such debts and all such propositions submitted may be upon the same ballot and voted upon at the same election.

SEC. 6. The returns of such election shall be prepared and made in accordance with the general election laws of the State of Texas except that such returns shall be made to the President and Secretary of such Water Power Control District and be submitted by them to the Board of Directors of such District and same shall be estimated, canvassed and the result thereof declared by the Board of Directors of such District and a record thereof shall be entered upon the minutes of such District.

After any such debt shall have been so authorized by the election, a full copy of the proceedings of the organization of such District and of such election and of an order of the Board of Directors of such District providing for the evidence, terms

and form of such debt, after authorized by an election, shall be submitted to the Attorney General of the State of Texas for his approval as to the validity thereof, and if and when approved by him as legal obligations shall be registered in the office of the Comptroller of Public Accounts in the State of Texas, together with a certificate of approval so given by the Attorney General of the State of Texas.

When and if such Water Power Control District shall issue any such evidence of debt to secure a loan from any agency of the United States or from the United States or under and in accordance with any laws passed by Congress for the purpose of authorizing and having made such laws and an election shall have been held within such District to authorize same and the record thereof shall have been submitted to the Attorney General of the State of Texas for his approval and such approval shall be given, evidenced by certificate thereof filed in the office of the Comptroller of Public Accounts in the State of Texas, and such evidence of debt shall have been registered by the Comptroller of Public Accounts and have been delivered by him to the officers of such District or other persons duly authorized to receive same and shall have been in fact delivered and the amount of such loan or any part thereof shall have been actually paid to such District or other person duly authorized to receive same, then such loan and all such evidence thereof and all proceedings had to authorize the issuance thereof and its approval and registration and the delivery of such evidence of such debt shall be valid binding obligations and incontestable, except for actual fraud, unless any suits, suit or actions to contest same shall have been filed and process therein issued prior to the time of the registration of such securities by the Comptroller of Public Accounts as herein provided.

Any person, corporation, associations, organizations or partnerships, which may contest or may desire to contest or controvert the issuance of such evidences of indebtedness, or oppose same, by any legal or equitable action or proceedings as may be authorized by law, shall file or commence such proceeding prior to the time of the registration of such evidence of indebtedness by the Comptroller of Public Accounts, and the period of time in which any such action may be filed or taken shall end and be terminated at the time of the registration of such evidence of indebtedness by the Comptroller of Public Accounts, and shall not thereafter be heard or considered unless filed within said period of time. The securing of such loans and the doing of such work so contemplated is a matter of great public concern, and such condition creates a special emergency requiring that the validity of such securities be not questioned and, therefore, creates a necessity authorizing this provision of the law and the legislative determination herein contained that when and if the issuance of such securities are authorized by an election held as herein provided, and such

funds are actually paid, that the procedure for the issuance thereof and the validity thereof shall not be questioned after the lapse of the period herein provided during which any such contests may be filed or instituted.

SEC. 7. This Act amends an Act passed as the Regular Session of the Forty-third Legislature, known as House Bill No. 413, and being Chapter 76 of the Acts of the Regular Session of the Forty-third Legislature. All things done in accordance with the provisions of said Act are continued in full effect and all districts organized thereunder are continued in full effect and all districts organized thereunder are continued in full force and effect. All notices issued and published in accordance with the provisions of said Act are continued in full force and effect the same as if same had been issued, published or given under the terms and provisions of this Act and all such proceedings commenced and not completed under the terms and provisions of this Act.

SEC. 8. Whereas, the organization and operation of Water Improvement Districts and Water Power Control Districts covered by the provisions of this Act, due to existing economic conditions, can by co-operation with Federal agencies be greatly facilitated and the construction of water and power systems through such aid will greatly relieve public want through construction of such self-liquidating projects; and the enactment of appropriate legislation is necessary for such purposes, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended and said Rule is hereby suspended and this Act shall take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—S. B. No. 51 passed the Senate by a vote of 28 yeas, 1 nay; passed the House by a vote of 103 yeas, 0 nays.]

Approved October 13, 1933.

Effective October 13, 1933.

APPROPRIATION FOR INCIDENTAL EXPENSES OF
STATE TREASURER.

S. B. No. 53.]

CHAPTER 20.

An Act making an appropriation for the purpose of providing postage, insurance, stamps and other expenses, necessary in performing the duties required of the State Treasurer in the administration of the provisions of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, during the fiscal years of 1933-34 and 1934-35, to be paid out of interest earned on the daily balances of "Paying Fund of the Board of County and District Road Indebtedness", and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. For the purpose of providing postage, insurance, stamps and other expenses necessary in performing the duties required of the State Treasurer in the administration of the provisions of Chapter 13, Acts of the Third Called Session of the Forty-second Legislature, as amended, there is hereby appropriated the sum of not to exceed Ten Thousand (\$10,000.00) Dollars for each of the fiscal years, beginning September 1, 1933 and ending August 31, 1934, and beginning September 1, 1934 and ending August 31, 1935, to be paid out of the interest earned on the daily balances credited to the "Paying Fund of the Board of County and District Road Indebtedness;" provided that same shall be spent under the direction of the Board of County and District Road Indebtedness; provided further, that if the interest so earned is insufficient to pay such expenses the appropriation herein provided for, shall be lessened to that extent.

SEC. 2. The fact that postage and insurance on the bonds, coupons, necessary correspondence and other expenses amounts to as much as Fifty (\$50.00) Dollars on some single days, and the further fact that such expenses have heretofore been borne by the State Treasury Department out of the regular appropriation made for such Department, creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three successive days in both Houses be suspended and such Rule is hereby suspended and this Act shall take effect and be in force from and after its passage; and it is so enacted.

[NOTE.—S. B. No. 53 passed the Senate by a vote of 28 yeas, 0 nays; passed the House by a vote of 106 yeas, 3 nays.]

Approved October 13, 1933.
Effective October 13, 1933.